

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DESTROY E. THOMAS §
VS. § CIVIL ACTION NO. 1:11cv206
B.H. JACKSON §

MEMORANDUM OPINION REGARDING VENUE

Plaintiff Destroy E. Thomas, an inmate confined in the Estelle Unit of the Texas Department of Criminal Justice, Institutional Division, proceeding *pro se*, brings this civil rights action pursuant to 42 U.S.C. § 1983 against B.H. Jackson, a lieutenant at the Estelle Unit.

Analysis

The Civil Rights Act, 42 U.S.C. § 1981, *et. seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue in civil rights cases is controlled by 28 U.S.C. § 1391. *Jones v. Bailey*, 58 F.R.D. 453 (N.D. Ga. 1972), *aff'd per curiam*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose.

The Estelle Unit is located in Walker County, Texas. Pursuant to 28 U.S.C. § 124, Walker County is located in the Houston Division of the Southern District of Texas.

Plaintiff complains about events which occurred at the Estelle Unit. According, his claims against the defendant arose in Walker

County. Moreover, the defendant appears to reside in Walker County. As Walker County is located in the Houston Division of the Southern District of Texas, venue with respect to plaintiff's claim is not proper in the Eastern District of Texas. When a case is filed in the wrong district or division, the court "shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a).

Accordingly, plaintiff's claim will be transferred to the Houston Division of the United States District Court for the Southern District of Texas. A Transfer Order shall be entered in accordance with this Memorandum Opinion.

SIGNED this 28 day of June, 2011.



EARL S. HINES
UNITED STATES MAGISTRATE JUDGE